

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 3867 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be
allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the
fair copy of the judgment ?

4 Whether this case involves a substantial
question of law as to the interpretation
of the constitution of India, 1950 or any
order made thereunder ?

5 Whether it is to be circulated to the
civil judge ?

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JITENDRAKUMAR DASHRATHLAL PATEL

Versus

STATE OF GUJARAT

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Appearance :

MR MB GANDHI for Petitioner(s) : 1,

MS KRINA CALLA, ASST. GOVERNMENT PLEADER for Respondent.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 03/08/2007

ORAL JUDGMENT

In the present petition, the petitioner has

challenged an order dated 20th September 1996 passed by the District Collector, Ahmedabad as upheld by the State Government by an order dated 30th March 1998.

The petitioner was dealing in essential commodities with necessary licence in this regard. Regarding certain alleged irregularities detected in his rice and flour mill, a show cause notice came to be issued on 27.03.96. Though there were as many as six different irregularities alleged against the petitioner, in the eventual order the Collector confined to confiscation of 968.12 kgs of rice which the petitioner should have deposited with the Government by way of compulsory levy.

The show cause notice alleged that from April 1995, the petitioner was required to deposit a total quantity of 968.12 kgs of rice with the Government which the petitioner failed to do. The petitioner replied to the show cause notice by his representation dated 23.07.96.

The Collector, however, did not accept the defence of the petitioner in this regard and held that though required under law, the petitioner had not deposited the said quantity of rice with the Government, and, therefore, had thereby breached the provisions of Gujarat Essential Commodities [Licencing Control Order] 1981. He therefore ordered confiscation of the said quantity of rice. The appeal filed by the petitioner came to be rejected by the State Government. He has, therefore, filed this petition.

As noted earlier, though there were several allegations made against the petitioner, since the order

of the Collector is confined only to the extent of non-depositing of certain quantity of rice, I have confined my scrutiny only to this aspect of the matter.

In this regard, it is not in dispute that at the relevant time there was a compulsory levy of rice demanded by the State Government, under the appropriate notification issued in exercise of powers vested in it under the Gujarat Essential Commodities [Licencing Control Order] 1981. It is also not in dispute that the petitioner was required to deposit with the Government a total quantity of 968.12 kgs of rice from April 1995 till his premises were inspected. It is also not in dispute that the petitioner did not so deposited rice with the Government.

Learned advocate Mr. Gandhi for the petitioner submitted that subsequently Government issued a notification deleting rice from the list of items of compulsory levy. However, admittedly in the year 1995, rice was one of the essential commodities required to be deposited with the Government.

The main defence of the petitioner, however, has been that he had in fact approached the authority for surrendering the required quantity of rice, however, there was no machinery of the State Government to accept such deposits and the petitioner, therefore, cannot be blamed for the same.

The authorities below have taken into consideration this defence of the petitioner but found that the same is not borne out on record. The Collector in his impugned

order observed that the contention of the petitioner cannot be believed. It was also observed that the petitioner had never raised any dispute or contended that though he had volunteered to deposit quantity of rice, the same was not received by the authority. On that basis the Collector did not accept the defence of the petitioner. The appellate authority also upheld the order passed by the Collector.

These are purely factual findings. There is nothing on the record to convince me to deviate from the findings arrived at by the authorities.

That being so, the order passed by the Collector confiscating quantity of rice cannot be termed as illegal. The petition is, therefore, dismissed. Rule is discharged. No order as to costs.

[AKIL KURESHI, J.]

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